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COLUMBIA, SOUTH CAROLINA

July 11, 2008

VIA ELECTRONIC FILING

Mr. Charles Terreni, Chief Clerk of the Commission
Public Service Commission of South Carolina
Synergy Business Park, Saluda Building
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**Re: Application of Duke Energy Carolinas, LLC
for approval of Energy Efficiency Plan
Docket No. 2007-358-E**

Dear Mr. Terreni:

Enclosed for filing please find the Explanatory Brief and Joint Motion for Approval of Amended Settlement and Adoption of Amended Settlement Agreement. By copy of this letter we are serving copies of the same on all parties of record. If you have any questions, please have someone on your staff contact me.

Yours truly,

ROBINSON, MCFADDEN & MOORE, P.C.

Frank R. Ellerbe, III

/tch

Enclosure

c/enc: Catherine E. Heigel, Assistant General Counsel (via email and US Mail)
Nanette Edwards, Chief Counsel (via email and US Mail)
Scott Elliott, Esquire (via email and US Mail)
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BEFORE THE
PUBLIC SERVICE COMMISSION
OF SOUTH CAROLINA

COVER SHEET

Application of Duke Energy Carolinas, LLC
for Approval of Energy Efficiency Plan Including an
Energy Efficiency Rider and Portfolio of Energy
Efficiency Programs

DOCKET
NUMBER: 2007-358-E

(Please type or print)

Submitted by: Frank R. Ellerbe, IIISC Bar Number: 1866

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NOTE: The cover sheet and information contained herein neither replaces nor supplements the filing and service of pleadings or other papers as required by law. This form is required for use by the Public Service Commission of South Carolina for the purpose of docketing and must be filled out completely.

DOCKETING INFORMATION (Check all that apply)

☐ Emergency Relief demanded in petition ☐ Request for item to be placed on Commission's Agenda expeditiously

☐ Other: _____

INDUSTRY (Check one)	NATURE OF ACTION (Check all that apply)			
<input checked="" type="checkbox"/> Electric	<input type="checkbox"/> Affidavit	<input type="checkbox"/> Letter	<input type="checkbox"/> Request	
<input type="checkbox"/> Electric/Gas	<input type="checkbox"/> Agreement	<input type="checkbox"/> Memorandum	<input type="checkbox"/> Request for Certification	
<input type="checkbox"/> Electric/Telecommunications	<input type="checkbox"/> Answer	<input type="checkbox"/> Motion	<input type="checkbox"/> Request for Investigation	
<input type="checkbox"/> Electric/Water	<input type="checkbox"/> Appellate Review	<input type="checkbox"/> Objection	<input type="checkbox"/> Resale Agreement	
<input type="checkbox"/> Electric/Water/Telecom.	<input type="checkbox"/> Application	<input type="checkbox"/> Petition	<input type="checkbox"/> Resale Amendment	
<input type="checkbox"/> Electric/Water/Sewer	<input type="checkbox"/> Brief	<input type="checkbox"/> Petition for Reconsideration	<input type="checkbox"/> Reservation Letter	
<input type="checkbox"/> Gas	<input type="checkbox"/> Certificate	<input type="checkbox"/> Petition for Rulemaking	<input type="checkbox"/> Response	
<input type="checkbox"/> Railroad	<input type="checkbox"/> Comments	<input type="checkbox"/> Petition for Rule to Show Cause	<input type="checkbox"/> Response to Discovery	
<input type="checkbox"/> Sewer	<input type="checkbox"/> Complaint	<input type="checkbox"/> Petition to Intervene	<input type="checkbox"/> Return to Petition	
<input type="checkbox"/> Telecommunications	<input type="checkbox"/> Consent Order	<input type="checkbox"/> Petition to Intervene Out of Time	<input type="checkbox"/> Stipulation	
<input type="checkbox"/> Transportation	<input type="checkbox"/> Discovery	<input type="checkbox"/> Prefiled Testimony	<input type="checkbox"/> Subpoena	
<input type="checkbox"/> Water	<input type="checkbox"/> Exhibit	<input type="checkbox"/> Promotion	<input type="checkbox"/> Tariff	
<input type="checkbox"/> Water/Sewer	<input type="checkbox"/> Expedited Consideration	<input type="checkbox"/> Proposed Order	<input checked="" type="checkbox"/> Other: Explanatory Brief and Joint Motion	
<input type="checkbox"/> Administrative Matter	<input type="checkbox"/> Interconnection Agreement	<input type="checkbox"/> Protest		
<input type="checkbox"/> Other:	<input type="checkbox"/> Interconnection Amendment	<input type="checkbox"/> Publisher's Affidavit		
	<input type="checkbox"/> Late-Filed Exhibit	<input type="checkbox"/> Report		

BEFORE
THE PUBLIC SERVICE COMMISSION OF
SOUTH CAROLINA
DOCKET NO. 2007-358-E

In re:)	
Application of Duke Energy Carolinas, LLC)	EXPLANATORY BRIEF AND
For Approval of Energy Efficiency Plan)	JOINT MOTION FOR
Including an Energy Efficiency Rider and)	APPROVAL OF AMENDED
Portfolio of Energy Efficiency Programs)	SETTLEMENT AND ADOPTION
)	OF AMENDED SETTLEMENT
)	AGREEMENT
)	

Duke Energy Carolinas, LLC ("Duke Energy Carolinas"), the South Carolina Office of Regulatory Staff ("ORS"), and Piedmont Natural Gas Company, Inc. ("Piedmont") (collectively "the Parties") pursuant to S.C. Regs. 103-829 and other applicable statutes, rules and regulations, and consistent with the Settlement Policies and Procedures established by the Public Service Commission of South Carolina ("Commission"), revised June 13, 2006, file this Explanatory Brief and Joint Motion seeking approval of an amended settlement in the above-captioned proceeding. In support of this Joint Motion, the Parties provide the following information:

1. On September 28, 2007, Duke Energy Carolinas filed an Application requesting approval of (1) a new regulatory approach to energy efficiency programs, (2) an energy efficiency rider to implement the energy efficiency plan, and (3) a portfolio of energy efficiency programs. The Application was filed pursuant to S.C. Code Ann. Sections 58-27-820, 58-27-870, and 58-37-20. ORS is a party of record in this proceeding pursuant to 58-4-10(B). Piedmont filed a petition to intervene and is a party of record. The other parties of record that are not parties to the amended proposed settlement are Southern Environmental Law Center ("SELC"),

the Coastal Conservation League (“CCL”), the Southern Alliance for Clean Energy (“SACE”), Environmental Defense (“ED”), S.C. Energy Users Committee (“SCEUC”); and Wal-Mart Stores East, LP (“Wal-Mart”).

2. The evidentiary hearing in this docket was held on February 5 and 6, 2008.

3. Prior to the evidentiary hearing, the Parties entered into a partial settlement and executed a Settlement Agreement dated February 1, 2008 (“Initial Settlement Agreement”). The partial settlement provided for the implementation of a discussion process involving Duke Energy Carolinas, Piedmont, and ORS to determine if the issues raised by Piedmont could be resolved amicably, in the public interest, and consistent with state and federal laws.

4. As provided in the Initial Settlement Agreement, subsequent to the evidentiary hearing the parties have been involved in extensive discussions concerning the Piedmont issues. Duke Energy Carolinas, and Piedmont have determined that their interests, and ORS has determined that the public interest, would best be served by stipulating to a settlement of all of the issues between the Parties. The Amended Settlement Agreement detailing the terms and conditions of the settlement is attached as Exhibit A. The basis and rationale for the settlement is set forth in the Amended Settlement Agreement. After the Energy Efficiency Plan is approved by the Commission, Duke Energy Carolinas will file tariff or promotional service offerings under the Energy Efficiency Plan utilizing the Commission’s normal procedures and regulations for filing new service offerings. Duke Energy Carolinas will provide supporting information and/or testimony as deemed necessary by the Commission and/or ORS for the new service offerings.

5. The parties move that the Commission approve both the Initial Settlement and the Amended Settlement Agreement as being in the public interest.

WHEREFORE, having fully set forth their Explanatory Brief and Joint Motion, the parties request that the Commission issue an order approving the Parties settlement as just, fair and reasonable.

Dated this 11th day of July, 2008.

WE SO MOVE:

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A handwritten signature in cursive script, reading "Nanette S. Edwards", is written over a horizontal line.

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EXHIBIT A

AMENDED SETTLEMENT AGREEMENT

BEFORE
THE PUBLIC SERVICE COMMISSION OF
SOUTH CAROLINA
DOCKET NO. 2007-358-E

In re:)	
Application of Duke Energy Carolinas, LLC)	AMENDED SETTLEMENT
For Approval of Energy Efficiency Plan)	AGREEMENT
Including an Energy Efficiency Rider and)	
Portfolio of Energy Efficiency Programs)	
)	

This Amended Settlement Agreement (the "Amended Settlement Agreement") is made by and among the South Carolina Office of Regulatory Staff ("ORS"), Duke Energy Carolinas, LLC ("Duke Energy Carolinas" or the "Company"), and Piedmont Natural Gas Company, Incorporated ("Piedmont"), collectively referred to herein as the Parties.

RECITALS

WHEREAS, on September 28, 2007, Duke Energy Carolinas filed an Application for Approval of Energy Efficiency Plan including an Energy Efficiency Rider, and Portfolio of Energy Efficiency Programs with the Public Service Commission of South Carolina ("Commission"). Pursuant to S.C. Code Ann. Section 58-37-20, the Commission established the above captioned docket and issued a Notice of Filing and Hearing. ORS filed its notice of appearance of counsel on October 2, 2007. Pursuant to S.C. Code Ann. Section 58-4-10, ORS is a party of record in all filings, applications, and proceedings before the Commission. On November 8, 2007, Piedmont filed a petition to intervene. The evidentiary hearing was held on February 5 and 6, 2008;

WHEREAS, the Parties previously entered into a Settlement Agreement dated February 1, 2008, in which they agreed to participate in good faith discussions to address the issues raised by Piedmont in the docket and other related matters (“Initial Settlement Agreement”). The Parties have participated in the discussions described in the Initial Settlement Agreement resulting in this Amended Settlement Agreement.

WHEREAS, the Parties are parties of record in the above-captioned docket. The other parties of record in the above-captioned proceeding that are not parties to this Amended Settlement Agreement are: Southern Alliance for Clean Energy (“SACE”); Southern Environmental Law Center (“SELC”); the Coastal Conservation League (“CCL”); Environmental Defense (“ED”), S.C. Energy Users Committee (“SCEUC”); and Wal-Mart Stores East, LP (“Wal-Mart”);

WHEREAS, the Parties have engaged in discussions to determine if a settlement of the issues would be in their best interests;

NOW THEREFORE, following those discussions, the Parties have each determined that their interests and the public interest would best be served by settling all issues pending in the above-captioned case under the terms and conditions set forth below:

AGREEMENT

1. The Parties agree to support this settlement in any evidence and proposed orders they submit to the Commission in support of approval of this settlement.

2. The Parties acknowledge and support the terms of the Settlement Agreement between Duke Energy Carolinas, ORS, SCEUC and Wal-Mart filed with the Commission on January 30, 2008 (“SCEUC Settlement”).

3. In order to clarify the intent and design of Duke Energy Carolinas' proposed energy efficiency programs described in the testimony of Company Witness Theodore Schultz and as a compromise to positions advanced by Duke Energy Carolinas and Piedmont, the Parties hereto agree to the proposal set out immediately below. This proposal is hereby adopted, accepted, and acknowledged as the agreement of the Parties. The Parties agree that:

I. Program Design and Intent

4. The energy efficiency programs included in Duke Energy Carolinas' Energy Efficiency Plan are not intended to displace or replace natural gas appliances with competing electric appliances and are not designed to encourage fuel-switching. With respect to filings for approval of specific programs, Duke Energy Carolinas agrees to demonstrate electric energy savings for each program utilizing cost-effectiveness testing, however no such showing shall be required for peak shaving/load shifting programs.

II. Residential and Nonresidential Smart Saver[®]

5. Duke Energy Carolinas agrees that: (a) the "flexibility" requested by the Company to shift funding among energy efficiency programs will be limited to reallocations among programs and their associated measures that have been filed and approved by the Commission in this docket (*i.e.*, the Company may not shift funds to any new program that has not been filed and approved by the Commission); (b) incentives offered by Duke Energy Carolinas will not exceed 50% of the installed cost difference between standard equipment and higher efficiency equipment for any program application, except for low income weatherization and residential lighting programs, or such other programs as may be ordered by the Commission at the request of parties other

than Duke Energy Carolinas; and (c) Duke Energy Carolinas will promote on an equal basis and offer equivalent incentive payments for heat pumps and air-conditioning.

***III. Residential Smart Saver® Air Conditioners
and Heat Pumps Incentive Program***

6. Duke Energy Carolinas' Residential Smart Saver® Air Conditioners and Heat Pumps Incentive Program, which the Company intends to file upon approval of the Company's Energy Efficiency Plan will provide incentives to customers, builders, and heating and air conditioning contractors to promote the use of high-efficiency air conditioners and heat pumps with electronically commutated fan motors ("ECM"). The program will be designed to increase the efficiency of HVAC systems in new homes and for replacements in existing homes. Owner-occupied residences, condominiums, and mobile homes served by Duke Energy Carolinas will be eligible for both the air conditioner and heat pump components of this program.

7. Duke Energy Carolinas agrees to file a description of the Smart Saver® for Residential Customers program upon approval of its Energy Efficiency Plan, which will specify that if a home is either currently heated by a natural gas furnace, or if natural gas is available at a new home, then a heat pump incentive is available if a heat pump is installed with ECM as part of a dual-fuel system that uses natural gas as the supplemental heat source. The Parties agree that the Commission shall have continuing oversight of the operation of this provision and that Duke Energy Carolinas will file an update report to the Commission specifying the enrollment and effect of this measure as part of its annual energy efficiency rider proceedings.

8. ***IV. Residential Smart Saver®***

8. Duke Energy Carolinas agrees that it will not offer incentives for appliances until: (a) ENERGY STAR® ratings or some other nationally recognized ratings are established for these appliances; and (b) Commission approval of the Company's programs applicable to such appliances has been obtained in conformity with the Commission's rules and regulations. Duke Energy Carolinas further agrees that incentives under this program, which the Company intends to file upon approval of the Company's Energy Efficiency Plan, will not include hot water heating systems.

V. Nonresidential Smart Saver®

9. Duke Energy Carolinas agrees that energy efficiency measures for prescriptive or custom incentives must prove cost-effective under the Utility Cost Test. Cost-effectiveness will be measured based on the improvement in electric efficiency only. The Company further agrees that custom incentives will only apply when there is an improvement in electric efficiency. In cases where electric equipment does not currently exist within a customer's facility, Duke Energy Carolinas will compare the proposed efficiency measure against the efficiency of the current code or standard electric equipment that would have been installed. Finally, Duke Energy Carolinas agrees that custom incentive applications will not be originated by Duke Energy Carolinas; rather, custom incentives must originate with customers bringing new ideas to Duke Energy Carolinas for efficient electric applications after the customer has chosen the technology and fuel source.

VI. Measures under Nonresidential Smart Saver[®] Program

10. Duke Energy Carolinas commits to file the list of measures previously provided to Piedmont when it files for approval of its Nonresidential Smart Saver[®] Program. The list filed will include the measures being offered and the incentive amounts associated with each measure. Duke Energy Carolinas agrees that the incentive amounts contained in this list will not be increased without a further filing and approval by the Commission.

VII. Joint Program Development

11. Duke Energy Carolinas and Piedmont agree to work together in good faith for the benefit of consumers to design and implement joint energy efficiency programs that promote high-efficiency improvements to (i) new home or building construction, (ii) existing buildings or homes, (iii) energy audits, and (iv) home or building weatherization programs. All new programs jointly developed by Piedmont and the Company will be filed with the Commission for approval.

VIII. Continuing Review

12. Piedmont does not object at this time to the programs set forth in the direct testimony of Company Witness Schultz, as clarified herein. However, Piedmont reserves the right to assert objections to individual program filings made in this docket if Piedmont determines that any individual program filing (i) poses an unreasonable risk to free and fair competition between natural gas and electricity, or (ii) promotes the inefficient consumption of energy.

13. The Parties agree to cooperate in good faith with one another in recommending to the Commission that this Amended Settlement Agreement be accepted

and approved by the Commission as a fair, reasonable and full resolution by the Parties to this Amended Settlement Agreement of all issues currently pending in the above-captioned proceeding. The Parties agree to use reasonable efforts to defend and support any Commission order issued approving this Amended Settlement Agreement and the terms and conditions contained herein.

14. This written Amended Settlement Agreement contains the complete agreement of the Parties. The Parties agree that by signing this Amended Settlement Agreement, it will not constrain, inhibit or impair their arguments or positions held in future proceedings. If the Commission declines to approve the Amended Settlement Agreement in its entirety, then any Party desiring to do so may withdraw from the Amended Settlement Agreement without penalty, within five days of receiving notice of the decision, by providing written notice of withdrawal via electronic mail to the other parties in that time period.

15. This Amended Settlement Agreement shall be effective upon execution of the Parties and shall be interpreted according to South Carolina law.

16. This Amended Settlement Agreement shall bind and inure to the benefit of each of the signatories hereto and their representatives, predecessors, successors, assigns, agents, shareholders, officers, directors (in their individual and representative capacities), subsidiaries, affiliates, parent corporations, if any, joint ventures, heirs, executors, administrators, trustees, and attorneys.

17. The above terms and conditions fully represent the agreement of the Parties hereto. Therefore, each Party acknowledges its consent and agreement to this Amended Settlement Agreement by authorizing its counsel to affix his or her signature to

this document where indicated below. Counsel's signature represents his or her representation that his or her client has authorized the execution of the Amended Settlement Agreement. Facsimile signatures and e-mail signatures shall be as effective as original signatures to bind any party. This document may be signed in counterparts, with the various signature pages combined with the body of the document constituting an original and provable copy of this Amended Settlement Agreement.

The foregoing is agreed and stipulated to this 11th day of July, 2008.

(Signature Pages Follow)

Representing and binding Duke Energy Carolinas, LLC

By  _____

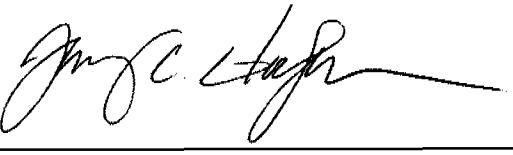
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Attorneys for Piedmont Natural Gas Company Incorporated

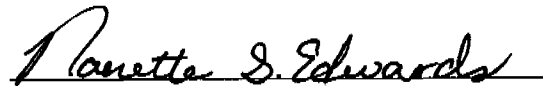
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**BEFORE
THE PUBLIC SERVICE COMMISSION
OF SOUTH CAROLINA
DOCKET NO. 2007-358-E**

In Re:)
)
Application of Duke Energy)
Carolinas, LLC for Approval of)
Energy Efficiency Plan Including an)
Energy Efficiency Rider and)
Portfolio of Energy Efficiency)
Programs)

CERTIFICATE OF SERVICE

This is to certify that I, Leslie Allen, a legal assistant with the law firm of Robinson, McFadden & Moore, P.C., have this day caused to be served upon the person(s) named below the **Explanatory Brief and Joint Motion for Approval of Amended Settlement and Adoption of Amended Settlement Agreement** in the foregoing matter by placing a copy of same in the United States Mail, postage prepaid, in an envelope addressed as follows:

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Dated at Columbia, South Carolina this 11th day of July, 2008.

A handwritten signature in cursive script, reading "Leslie Allen". The signature is written in dark ink and is positioned above a horizontal line.

Leslie Allen